

Working Things Out When Things Go Wrong

The Special Education Preappeal Conference for Conflict Resolution

Preappeal

Parents, local school districts or area education agencies (AEAs) may choose any of five different methods to resolve differences about a student's special education services: preappeal conference, complaint, mediation, hearing or the use of a Resolution Facilitator.

The preappeal conference is conducted like a mediation without the looming hearing date. In fact, mediation becomes an option only when a hearing has been scheduled. Local school districts, AEAs, parents and other invited parties take part in the process.

Resolving differences

A preappeal conference promotes communication, mutual respect, and identification of common ground perhaps better than all others.

****Requesting a preappeal conference**

A letter to the Department of Education is all it takes to get the ball rolling. When you write, identify the student, district, and AEA. Be sure to describe the issues of concern or the reason for the conference. The entire letter could be two or three sentences. These issues must relate to identification, evaluation, education placement, or the provision of a free appropriate public education. The conference will be scheduled at a time and place convenient for all parties involved. Participation is voluntary.

Within ten working days, the district or AEA will submit a special education preappeal checklist to the Department of Education and a copy to the parents. The student's complete school record will be available for review if requested at least ten calendar days prior to the conference and will be available to all participants in attendance. A trained, neutral mediator will be provided by the Department, at no cost to the parties.

The desired result of the conference is a written agreement that is acceptable to all parties. If an agreement is reached, a written summary will be prepared by the mediator. It will be sent to all parties within ten business days after the conference.

The preappeal is a system designed to achieve success with all parties given a chance to end the disagreements in a win/win situation. Historically, the process has been praised by parents, district and AEA staff, as well as advocacy groups. If you are not satisfied, you can still request a due process hearing.

Who can request a preappeal conference

A parent, a district, or an AEA may request a special education preappeal conference.

If you submit a written request for a special education preappeal conference or are asked to attend one, several conditions must be met. First, the conference must be scheduled within a reasonable amount of time. The conference also must be held at a location that is convenient to all parties.

The mediator will facilitate the process. A parent of a child with a disability may bring a representative to the conference or anyone who is in a position to assist the parent in addressing questions and concerns about the child's education.

The Department will mail information to all parties so everyone will understand the role of the mediator, some communication guidelines, as well as some other tips to prepare for the preappeal conference.

Additional assurances

Participants will not discuss the details of this preappeal conference with anyone unless required by law.

The Iowa Department of Education assures the preappeal process will not deny or delay the right to a due process hearing. Conference proceedings and offers of agreement may not be entered as evidence in a hearing. However, parties may stipulate to such agreements. Unless the parties agree otherwise, the student must remain in his or her current placement during the proceedings.

Mediation (Available when hearing is requested)

If you request a due process hearing, you may submit your dispute to mediation before the scheduled hearing is conducted. The mediation process is voluntary and, therefore, less confrontational than a due process hearing. Mediation will not be used to deny or delay your right to a due process hearing. The mediation will be conducted by a trained, qualified, and impartial mediator. You also may request an explanation of mediation benefits. If a party doesn't desire a hearing but wants a process to resolve differences, the preappeal should be considered.

Hearing (A right to due process)

Parents have a right to due process under the law. The Department of Education must inform parents of the availability of mediation and of the existence of any free or low-cost legal service in the area. Also, the hearing may not be conducted by an employee of the Iowa Department of Education or anyone with a personal or professional interest in its outcome. A parent may request a hearing on any issue relating to identification, evaluation, or educational placement of the child or the right to a free appropriate public education.

A public agency also may request a due process hearing to determine if the individual may be evaluated or initially provided special education and related services without parental consent.

A decision will be rendered within 45 calendar days by the administrative law judge. However, a request for extending this time frame may be granted by the administrative law judge. In fact, because of parties asking for an extension, very few hearings have a decision rendered within 45 days. A model form for requesting a hearing can be found in the Parental Rights brochure.

Investigation of complaints (It's the law)

If an individual or an organization feels that a district or AEA has violated a requirement of the Iowa special education rules, the individual or organization may file a formal complaint with the Iowa Department of Education. This process is not to be used when there is a difference of opinion. The complaint must be submitted in writing, contain a statement that the agency has committed a violation, and give the facts on which the statement is based. The complaint must be filed within 1 year of the alleged violation in most cases, unless a continuation of the violation justifies a longer period. The State must carry out an independent investigation of the complaint within 60 calendar days of filing. Additional requirements and a model form for filing a complaint can be found in the Parental Rights brochure. Most would contend this process does not promote communication, mutual respect, or an identification of common ground to the same degree as the preappeal.

Resolution facilitator

At the discretion of the local district or the AEA a Resolution Facilitator may be used to help settle differences between parties. This person may be someone from within the AEA who is considered neutral to the conflict under consideration or may be selected from outside the AEA where the conflict has occurred. In any event, only persons trained in mediation may be selected as the Resolution Facilitator. For additional information, contact the AEA. This process may be used before contacting the Department of Education.

Discrimination policy

It is the policy of the Iowa Department of Education not to discriminate on the basis of race, color, national origin, gender, disability, religion, creed, age or marital status in its programs or employment practices. If you have questions or grievances related to this policy, please contact Chief, Bureau of Administration and School Improvement Services, Grimes State Office Building, Des Moines, Iowa 50319-0146, 515-281-5811.